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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,909	09/22/2003	Richard F. Murphy	1001.1530101	9920
28075	7590	07/28/2006	EXAMINER	
CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			KOHARSKI, CHRISTOPHER	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/667,909

**Applicant(s)**

MURPHY, RICHARD F.

**Examiner**

Christopher D. Koharski

**Art Unit**

3763

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 41-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges amended claim 41. Currently claims 41-56 are currently pending for examination in this application.

The amendment filed on 6/30/2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the Parsi et al. (US2001/0027310) reference (see response to arguments below).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 41-53 are rejected under 35 U.S.C 102(b) as being anticipated by Parsi et al. (US2001/0027310). Parsi et al. discloses guide catheter with an inner liner and the device being a multi-material composite structure.

Regarding claims 41-47, Parsi et al. discloses a catheter with a metallic filament (30, [0034]) that is treated to create a greater surface area after treatment ([0038-39]). The catheter includes an inner and outer surface with a lumen extending there through. The outer layer and inner layer of the catheter are composed of polymeric materials ([0028]).

Regarding claims 48-53, Parsi et al. discloses a catheter with a metallic filament (30, [0034]) that is treated to create a greater surface area after treatment ([0038-39],

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Figure 5)). The metallic filament has a portion that is treated through laser ablation to increase the surface area as shown in Figure 5, the material is etched away leaving more exposed surface area of the braided support metallic material therefore meeting the limitations of the claim of an increase in surface area after treatment of the structural member. The catheter includes an inner and outer surface with a lumen extending there through. The outer layer and inner layer of the catheter are composed of polymeric materials ([0028]).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 54-56 are rejected under 35 U.S.C 103(a) as being unpatentable over Parsi et al. in view of Ozasa (2002/0143384). Parsi et al. meets the claim limitations as described above but does not include a member that is etched.

However, Ozasa teaches a tubular metallic cored device. Regarding claims 54-56, Ozasa teaches a device that has a metallic member that is chemically etched ([0050]).

At the time of the invention, it would have been obvious to use the etching of Ozasa with the device of Parsi et al. because the addition of chemically etching the member provides a heat sensitive way to adjust the surface geometry. Both references are analogous in the art and with the instant invention; therefore, a combination is

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proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Ozasa.

### ***Response to Arguments***

Applicant's arguments with respect to claims 54-56 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 6/30/2006 with respect to claims 41-53 have been fully considered but they are not persuasive. Regarding claim 53, the addition of the treatment of a "metallic" filament does not overcome the Parsi et al. reference as disclosed, see above rejection of claims 41-53.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Koharski whose telephone number is 571-272-7230. The examiner can normally be reached on 7:30am to 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

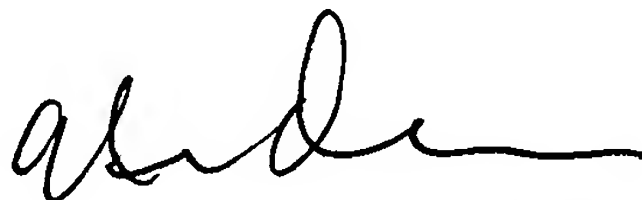
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Date: 7/11/2006



Christopher D. Koharski  
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